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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/978,593 | 10/18/2001 | Nana K. Ayisi | S&B-C161 | 5237 |

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EXAMINER

WINKLER, ULRIKE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1648

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/978,593

Applicant(s)

AYISI, NANA K.

Examiner

Ulrike Winkler, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 19-30 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 19-22, drawn to method of determining the cytopathic effect of a *Ocimum gratissimum* (wild basil, clove basil, tree basil) extract in a virus inactivating assay, classified in class 424, subclass 714.
- II. Claims 19, 20, 25 and 26, drawn to drawn to method of determining the cytopathic effect of a *Ficus polita* (wild rubber fig) extract in a virus inactivating assay, classified in class 424, subclass 714.
- III. Claims 19, 20, 27 drawn to drawn to method of determining the cytopathic effect of a *Clausena anisata* (whose leaves contain an essential oil consisting of almost pure anethole) extract in a virus inactivating assay, classified in class 424, subclass 714.
- IV. Claims 19, 20 and 29, drawn to drawn to method of determining the cytopathic effect of a *Alchornea cordifolia* extract in a virus inactivating assay, classified in class 424, subclass 714.
- V. Claims 19, 20, 23 and 24, drawn to drawn to method of determining the cytopathic effect of a *Sanserviera liberica*, extract in a virus inactivating assay, classified in class 424, subclass 714.
- VI. Claims 19, 20 and 28, drawn to drawn to method of determining the cytopathic effect of a *Combretum aphanopetalum* extract in a virus inactivating assay, classified in class 424, subclass 714.

Art Unit: 1648

VII. Claims 19, 20 and 30, drawn to method of determining the cytopathic effect of a *Elaeophorbium drupifera* extract in a virus inactivating assay, classified in class 424, subclass 714.

For each invention of groups I-VII above, restriction to one of the following is also required under 35 USC 121. Therefore, if applicant elects one of the inventions of groups I-VII, election is further required for one of inventions (A)-(F).

- (A). HSV-1 and HSV-2, a DNA virus, classified in class 424, subclass 231.1
- (B). HIV-1 and HIV-2, a RNA virus, a retrovirus, classified in class 424, subclass 208.1.
- (C). HCMV, a DNA virus, classified in class 424, subclass 230.1.
- (D). yellow fever virus, a RNA virus, a flavivirus, classified in class 424, subclass 218.1.
- (E). poliovirus virus, a RNA virus, a picornavirus, classified in class 424, subclass 217.1.
- (F). measles virus, a RNA virus, a paramyxovirus, classified in class 424, subclass 218.1.

The inventions are distinct, each from the other because of the following reasons:

Groups I-VII are drawn to methods and each is distinct from the other because they utilize different starting materials, therefore the outcomes are not be expected to be the same.

Groups I-VII utilize different plant extracts originating from plants of different genera. Though there may be overlap between these methods in question for groups I-VII, each utilizes different materials and therefore the outcome is expected to be different. The search for each plant extract requires different strategies for searching the literature. The search for one plant extract will not be coextensive with other plant extracts.

Inventions (A)-(F) are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different

Art Unit: 1648

functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions, represent structurally different viruses that have different etiologies and pathologies (modes of operation).

Because these inventions are distinct for the reasons given above, have acquired a separate status in the art as shown by their different classification, and the literature required for each of the Groups are not required for another of the Groups, restriction for examination purposes as indicated is proper.


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ulrike Winkler, Ph.D. whose telephone number is 703-308-8294. The examiner can normally be reached M-F, 8:30 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Housel, can be reached at 703-308-4027.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4242 or for informal communications use 703-308-4426.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.


Ulrike Winkler, Ph.D. 4/3/03